

REMARKS

This is in response to the Restriction Requirement mailed November 19, 2004, in connection with the above-referenced application.

Claims 1-41, 50-57, 74-82 and 102-116 are currently pending in this application. The Office Action requires restriction to one of four inventions alleged to be claimed. In response, Applicants hereby elect Group I, encompassing claims 1-38 and 102-116. However, this election is made with traverse because the proposed restriction requirement is unduly limiting and lacks adequate basis. Without comment to the possible existence of multiple independent and/or distinct inventions, Applicants note that MPEP §803 states that even if two or more claim groupings are independent or distinct as claimed, there must also be a serious burden on the examiner to require restriction. If search and examination of the entire application can be made without serious burden, the examiner must examine the entire application. *See* MPEP §803. There is no evidence of record demonstrating that searching between various groups would present a serious burden. Accordingly, the proposed restriction is improper.

The Office Action asserts that the claims of Group I are directed to patentably distinct species, and requires that Applicants elect a class of compounds for search purposes of the claimed inventions pursuant to 35 U.S.C. §121. Although Applicants believe that the restriction requirement and, hence, the request for species election are improper for the reasons stated above, Applicants provisionally elect for search purposes glucose-C6-amine vancomycin with traverse. This species is covered, *inter alia*, by generic claims 1 and 102, example 27, and originally presented claim 97.

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PATENT

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Applicants respectfully submit that the claims presently before the Examiner are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at the telephone number provided below.

Date: 12/14/04



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